

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF ALABAMA
NORTHERN DIVISION**

UNITED STATES OF AMERICA

v.

JORGE GOMEZ

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2:05-cr-166-F

DEFENDANT'S MOTION FOR DOWNWARD DEPARTURE

Comes now the Defendant, Jorge A. Gomez, by and through the undersigned counsel, and pursuant to the U.S.S.G. § 3B1.2(b), respectfully requests this Honorable Court to downwardly depart two (2) levels, in the sentence that would otherwise be imposed on Defendant Jorge A. Gomez, and as reasons therefore, submits the following:

1. Pursuant to U.S.S.G. § 3B1.2(b) a downward departure of two levels may be warranted if the defendant was a minor participant in the criminal activity.

2. Gomez' role in the offense was limited to transporting drugs. Mr. Gomez' possessed a complete lack of knowledge or understanding of the scope or structure of the criminal enterprise. Mr. Gomez was experiencing financial difficulties, and, in exchange for cash, was told by an individual in Texas to deliver the drugs to someone in South Carolina. Gomez did not even know the final destination or to whom he was supposed to deliver the package. He was told that once he reached the South Carolina border he was to call the individual in Texas and receive directions as to the final destination. His limited role was to transport the drugs to South Carolina.

3. The Eleventh Circuit has indicated that while the sentencing guidelines remain "an important sentencing factor," that Court has also not disapproved the clearly expressed desire of

some district courts to impose a more lenient sentence under merely advisory guidelines. See, e.g., U.S. v. Martinez, 407 F.3d 1170, (11th Cir. 2005).

Wherefore, premises considered, the Defendant moves this Honorable Court for a downward departure based on his mitigating role in the offense.

Respectfully submitted this 30th day of December 2005.

s/John M. Poti
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CERTIFICATE OF SERVICE

I hereby certify that on December 30, 2005, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the following: Susan Redmond, and I hereby certify that I have mailed by United States Postal Service the document to the following non CM/ECF participants: none.

s/John M. Poti
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